

1  
2  
3  
4  
5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
7

8 ROSARIO MARINELLO,

No. C-08-00664 EDL

9 Plaintiff,

**ORDER RE: PLAINTIFF'S MOTION  
FOR DEFAULT JUDGMENT**

10 v.

11 CA DEPARTMENT OF CORRECTIONS AND  
12 REHABILITATION,

13 Defendant.  
14 \_\_\_\_\_/

15 The Court has received Plaintiff's Motion for Default Judgment, which was filed on March  
16 25, 2008. The docket reflects that on February 28, 2008, after the Court granted Plaintiff's  
17 application to proceed in forma pauperis, summons was issued as to Defendant California  
18 Department of Corrections and Rehabilitation. No return of service has been docketed. A motion  
19 for default judgment is not appropriate until Defendant has been served, the time for Defendant to  
20 respond to the complaint has passed and the clerk has entered Defendant's default. See generally  
21 Fed. R. Civ. P. 55. Because there is no evidence that any of these events have occurred, Plaintiff's  
22 Motion for Default Judgment is denied without prejudice as untimely. Plaintiff may renew her  
23 motion for default judgment if it later becomes appropriate to do so under Rule 55.

24 To the extent that Plaintiff's filing constitutes her case management conference statement for  
25 the case management conference on May 6, 2008, the Court will retain the document and consider it  
26 in preparation for the case management conference. In the meantime, if Plaintiff has not already  
27 done so, she should obtain the Pro Se Handbook from the clerk's office at 450 Golden Gate Avenue

28 //

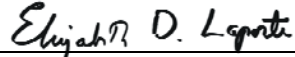
//

//

1 in San Francisco or on-line at [www.cand.uscourts.gov](http://www.cand.uscourts.gov).

2 **IT IS SO ORDERED.**

3  
4 Dated: April 3, 2008

  
5 ELIZABETH D. LAPORTE  
6 United States Magistrate Judge  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

ROSARIO MARINELLO,  
Plaintiff,

Case Number: CV08-00664 EDL

**CERTIFICATE OF SERVICE**

v.

CA DEPARTMENT OF CORRECTIONS  
AND REHABILITATION et al,

Defendant.

---

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 3, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Rosario Marinello  
390 Melrose  
Pacific Grove, CA 93950

Dated: April 3, 2008

Richard W. Wieking, Clerk



By: Lili M. Harrell, Deputy Clerk